

Exhibit 5

Daniel Wade Peterson

December 15, 2005

Helena, MT

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THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CERTIFIED COPY

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In re: PHARMACEUTICAL,
INDUSTRY AVERAGE WHOLESALE
PRICE LITIGATION

MDL DOCKET NO.
CIVIL ACTION
01CV12257-PBS

THIS DOCUMENT RELATES TO:
ALL ACTIONS

DEPOSITION OF DANIEL WADE PETERSON

Taken at

Law Offices of

Gough, Shanahan, Johnson & Waterman

33 South Last Chance Gulch

Helena, Montana

December 15, 2005

9:00 a.m.

Henderson Legal Services
(202) 220-4158

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1 Jersey.

2 Q. What year did you get your associate's
3 degree?

4 A. 19, I believe it was '92, somewhere around
5 there.

6 Q. What was the concentration of your
7 associate's?

8 A. Business administration.

9 Q. Do you have any further education beyond
10 that?

11 A. Yes, I went on, took some additional
12 classes, and to Idaho State University and
13 graduated with a degree in health care
14 administration in 1999.

15 Q. Was that a bachelor's?

16 A. Yes.

17 Q. Do you have any degrees beyond a
18 bachelor's?

19 A. No.

20 Q. And when did you begin your employment with
21 Montana DPHHS?

22 A. In 2002, August of 2002.

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1 Q. What was the title of the first position
2 that you took with DPHHS?

3 A. Pharmacy program officer, or human services
4 program officer.

5 Q. What is the title of your current position?

6 A. Pharmacy program supervisor.

7 Q. From 2002, when you were hired as pharmacy
8 program officer, could you just briefly describe
9 the responsibilities of that position?

10 A. Sure. Basically, I took care of all the
11 issues related to the Medicaid pharmacy program
12 dealing with client issues. When I say client, I
13 refer to our recipients. Provider issues, taking
14 care of our policies, procedures, taking care of
15 any administrative rules that needed to be done.
16 So basically everything encompassing the Medicaid
17 pharmacy program.

18 Q. How long did you hold the position of
19 pharmacy program officer?

20 A. Up until September of this year.

21 Q. And --

22 A. I am still fulfilling those duties, since

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1 listed in the general schedules, your agency must
2 draft a retention schedule and submit it to the
3 state records committee for approval.

4 Are you aware of a separate records
5 retention schedule for DPHHS?

6 A. I am not.

7 Q. Okay. I think we are done with that
8 exhibit. Thank you.

9 Prior to your search for responsive
10 documents, did you receive an e-mail or any other
11 communication instructing you or any other state
12 employees to retain all documents that might be
13 relevant to the subject matter of this litigation?

14 A. I don't recall I got any e-mail relating to
15 that.

16 Q. Did you receive any communication in a form
17 other than e-mail?

18 A. No. At what time period did you refer to
19 for that?

20 Q. Any time before you searched for the
21 responsive documents.

22 A. Any time before I searched for them?

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1 Q. Yes.

2 A. No.

3 Q. So since 2002 until the present day you
4 have not received a communication instructing you
5 to retain documents that might be relevant to the
6 subject matter of this litigation?

7 A. I did just this last week.

8 Q. Okay. Moving on to topic 1I of the
9 30(b)(6) notice: What measures has Montana
10 undertaken to reduce its expenditures for
11 prescription drugs?

12 MS. BRECKENRIDGE: Objection. Very broad.
13 For all of time, any type?

14 MS. SMITH-KLOCEK: From 1991 to the
15 present.

16 A. Well, I cannot speak to 1991, until the
17 time I started working there. But I can briefly
18 explain the stuff that I have done in my tenure
19 there.

20 Without having everything in front of me,
21 it might not be complete. But I can discuss in
22 generalities what we have done.

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1 notices.

2 Q. Anything else?

3 A. That's as far as I know. That's all I can
4 think of.

5 Q. Was there correspondence between yourself
6 and Mr. Preshinger regarding the reduction in
7 reimbursement rates or the proposed reduction in
8 reimbursement rates?

9 A. There probably was, but I just, I can't
10 think of any particular correspondence for certain.

11 Q. Do you and Mr. Preshinger communicate by
12 e-mail?

13 A. Yes, we do.

14 Q. Would you --

15 A. Also, I believe -- we have weekly meetings,
16 so --

17 Q. Are minutes kept at your weekly meetings?

18 A. No.

19 Q. Do you take notes at your weekly meetings?

20 A. Probably.

21 Q. Do you keep those notes?

22 A. They are just handwritten pieces of paper,

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1 so I don't keep them.

2 Q. Is there any internal office correspondence
3 regarding consideration of their reduction in
4 reimbursement to providers?

5 A. There would probably be by e-mail.

6 Q. And who would those e-mails be from or to?

7 A. Between Duane Preshinger and myself.

8 Q. Anyone else?

9 A. Probably infoing his supervisor, I believe
10 that was Jeff Buska at the time.

11 Q. Does Montana Medicaid process and
12 adjudicate prescription drug claims electronically
13 in real time?

14 A. Yes. We also process claims by paper, as
15 well. It's not all providers -- because not all
16 providers have a point of sale system.

17 Q. Do you know about what percentage of
18 prescription drug claims are processed by paper?

19 A. In our last DUR report I reported 98
20 percent of our claims are via point of sale.

21 Q. And by point of sale are you referring to
22 electronic claims processing?

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1 Q. As in discard.

2 A. Uh-huh.

3 Q. Earlier, you testified that you threw away
4 certain notes from meetings you attended with Mr.
5 Preshinger; is that correct?

6 A. I did say that, uh-huh.

7 Q. Are there --

8 A. Handwritten, like notes to myself,
9 reminders or points I would make on whatever
10 project I was working on.

11 Q. Are there any other handwritten notes that
12 you create that you have thrown away since you
13 started in 2002?

14 A. Gosh, that's -- I -- I don't know. I do so
15 much every day, it's just hard for me to remember.
16 I've got to write notes to myself, reminders,
17 little sticky notes. I got stuff laying all over
18 the place.

19 Q. Have you kept all your handwritten notes
20 since 2002?

21 A. No.

22 Q. Other than the ones that you --

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1 A. No.

2 Q. And in the files that you inherited from
3 Shannon Marr, did you see any directive or
4 communication stating that you should retain
5 documents based on the filing of the lawsuit?

6 A. No, I did not.

7 MS. SMITH-KLOCEK: I'm done.

8 MS. BRECKENRIDGE: Thank you.

9 (Whereupon, at 12:15 p.m., the taking of
10 the instant deposition ceased.)

11
12 SIGNATURE OF WITNESS

13
14 _____
15 DANIEL WADE PETERSON

16
17 SUBSCRIBED AND SWORN to before me this _____ day
18 of _____, 200__.

19
20 _____
21 Notary Public

22 My Commission Expires: _____

Henderson Legal Services
(202) 220-4158